

CHAPTER 1119

CRIMINAL TRANSMISSION OF CONTAGIOUS OR INFECTIOUS DISEASES

S.F. 2297

AN ACT relating to the criminal transmission of a contagious or infectious disease, providing penalties, and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. **709D.1 Title.**

This chapter shall be known and may be cited as the “*Contagious or Infectious Disease Transmission Act*”.

Sec. 2. NEW SECTION. **709D.2 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. “*Contagious or infectious disease*” means hepatitis in any form, meningococcal disease, AIDS or HIV as defined in section 141A.1, or tuberculosis.
2. “*Exposes*” means engaging in conduct that poses a substantial risk of transmission.
3. “*Practical means to prevent transmission*” means substantial good faith compliance with a treatment regimen prescribed by the person’s health care provider, if applicable, and with behavioral recommendations of the person’s health care provider or public health officials, which may include but are not limited to the use of a medically indicated respiratory mask or a prophylactic device, to measurably limit the risk of transmission of the contagious or infectious disease.

Sec. 3. NEW SECTION. **709D.3 Criminal transmission of a contagious or infectious disease.**

1. A person commits a class “B” felony when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease with the intent that the uninfected person contract the contagious or infectious disease, and the conduct results in the uninfected person becoming infected with the contagious or infectious disease.

2. A person commits a class “D” felony when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease with the intent that the uninfected person contract the contagious or infectious disease, but the conduct does not result in the uninfected person becoming infected with the contagious or infectious disease.

3. A person commits a class “D” felony when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease acting with a reckless disregard as to whether the uninfected person contracts the contagious or infectious disease, and the conduct results in the uninfected person becoming infected with the contagious or infectious disease.

4. A person commits a serious misdemeanor when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease acting with a reckless disregard as to whether the uninfected person contracts the contagious or infectious disease, but the conduct does not result in the uninfected person becoming infected with the contagious or infectious disease.

5. The act of becoming pregnant while infected with a contagious or infectious disease, continuing a pregnancy while infected with a contagious or infectious disease, or declining treatment for a contagious or infectious disease during pregnancy shall not constitute a crime under this chapter.

6. Evidence that a person knows the person is infected with a contagious or infectious disease and has engaged in conduct that exposes others to the contagious or infectious disease, regardless of the frequency of the conduct, is insufficient on its own to prove the intent to transmit the contagious or infectious disease.

7. A person does not act with the intent required pursuant to subsection 1 or 2, or with the reckless disregard required pursuant to subsection 3 or 4, if the person takes practical means

to prevent transmission, or if the person informs the uninfected person that the person has a contagious or infectious disease and offers to take practical means to prevent transmission but that offer is rejected by the uninfected person subsequently exposed to the infectious or contagious disease.

8. It is an affirmative defense to a charge under this section if the person exposed to the contagious or infectious disease knew that the infected person was infected with the contagious or infectious disease at the time of the exposure and consented to exposure with that knowledge.

Sec. 4. NEW SECTION. 709D.4 Additional remedies.

This chapter shall not be construed to preclude the use of any other civil or criminal remedy available relating to the transmission of a contagious or infectious disease.

Sec. 5. Section 141A.9, subsection 2, paragraph i, Code 2014, is amended to read as follows:

i. Pursuant to sections 915.42 and 915.43, to a convicted or alleged sexual assault offender; the physician or other health care provider who orders the test of a convicted or alleged offender; the victim; the parent, guardian, or custodian of the victim if the victim is a minor; the physician of the victim if requested by the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the victim's spouse; persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault; members of the victim's family within the third degree of consanguinity; and the county attorney who ~~may use the results as evidence in the prosecution of sexual assault under chapter 915, subchapter V, or prosecution of the offense of criminal transmission of HIV under chapter 709C~~ filed the petition for HIV-related testing under section 915.42. For the purposes of this paragraph, "victim" means victim as defined in section 915.40.

Sec. 6. Section 692A.101, subsection 1, paragraph a, subparagraph (9), Code 2014, is amended by striking the subparagraph.

Sec. 7. Section 692A.102, subsection 1, paragraph c, subparagraph (23), Code 2014, is amended by striking the subparagraph.

Sec. 8. Section 915.43, subsections 4 and 5, Code 2014, are amended to read as follows:

4. Results of a test performed under this subchapter, except as provided in subsection 13, shall be disclosed only to the physician or other practitioner who orders the test of the convicted or alleged offender; the convicted or alleged offender; the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the physician of the victim if requested by the victim; the parent, guardian, or custodian of the victim, if the victim is a minor; and the county attorney who filed the petition for HIV-related testing under this chapter, ~~who may use the results to file charges of criminal transmission of HIV under chapter 709C~~. Results of a test performed under this subchapter shall not be disclosed to any other person without the written informed consent of the convicted or alleged offender. A person to whom the results of a test have been disclosed under this subchapter is subject to the confidentiality provisions of section 141A.9, and shall not disclose the results to another person except as authorized by section 141A.9, subsection 2, paragraph "i".

5. If testing is ordered under this subchapter, the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole or of the alleged offender during a period of six months following the initial test if the physician or other practitioner who ordered the initial test of the convicted or alleged offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted or alleged offender was HIV-infected at the time the sexual assault or alleged sexual assault was perpetrated. The results of the test conducted pursuant to this subsection shall be released only to the physician or other practitioner who orders the test of the convicted or alleged offender,

the convicted or alleged offender, the victim counselor or person requested by the victim to provide the counseling regarding the HIV-related test and results who shall disclose the results to the petitioner, the physician of the victim, if requested by the victim, and the county attorney who ~~may use the results as evidence in the prosecution of the sexual assault or in the prosecution of the offense of criminal transmission of HIV under chapter 709C~~ filed the petition for HIV-related testing under section 915.42.

Sec. 9. REPEAL. Chapter 709C, Code 2014, is repealed.

Sec. 10. SEX OFFENDER REGISTRY — EXPUNGEMENT OF RECORD.

1. The division of criminal investigation in the department of public safety shall expunge the registration of a registrant who was required to register on the state's sex offender registry pursuant to chapter 692A, Code 2014, on the basis of having been convicted of the aggravated offense of criminal transmission of human immunodeficiency virus in violation of section 709C.1, subsection 1, paragraph "a", Code 2014, provided the registrant has been convicted of no other offense requiring registration.

2. The department of public safety shall also remove the relevant information of such a person specified in subsection 1 from the sex offender registry internet site provided the person has been convicted of no other offense requiring registration. Upon removal of the relevant information from the sex offender registry internet site, the relevant information of the person shall no longer be displayed on the sex offender registry internet site unless the person is convicted of another offense that requires registration.

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 30, 2014